

IN THE UNITED STATES DISTRICT COURT  
WESTERN DIVISION OF ARKANSAS  
EL DORADO DIVISION

JAMES F. BROWN

PLAINTIFF

VS.

Civil No. 06-CV-1019

KEN JONES, Sheriff, Union  
County, Arkansas; JUAN M.  
REYES, Deputy Sheriff; GREG  
STEVENSON, Deputy Sheriff;  
SHELBY MURPHEE, and  
UNION COUNTY, ARKANSAS

DEFENDANTS

**ORDER**

Now on this 7th day of June, 2006, comes on for consideration the proposed findings and recommendations filed herein on My 16, 2006, by the Honorable Bobby E. Shepherd, United States Magistrate Judge for the Western District of Arkansas. Ten (10) days having passed without objections being filed by the parties, the court hereby adopts in toto the findings and recommendations.

Accordingly, the court finds that Brown's claims against Shelby Murphee should be and are hereby dismissed prior to service of process as the claims are frivolous and fail to state claims upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(iii)(IFP action, or any portion thereof, may be dismissed because it fails to state a claim or states a claim that is not presently cognizable). Further, Brown's false arrest and false imprisonment claims should be and are hereby dismissed on the grounds they are barred by *Heck*. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(iii)(IFP action, or any portion thereof, may be dismissed because it fails to state a claim or states a claim that is not presently cognizable). Finally, to the extent the remaining claims, such as the illegal search claim are not barred by *Heck*, the court finds that the claims should be and are hereby stayed and administratively terminated. *Yamaha Motor Corp. v. Stroud*,, 179 F.3d 598, 603-04(8th Cir. 1999)(stay rather than dismissal appropriate when damages are sought and the court

is not being asked to declare a state statute unconstitutional). Brown may reopen his claims after the conclusion of the state criminal case.

IT IS SO ORDERED.

/s/ *Harry F. Barnes*  
**HARRY F. BARNES**  
**U.S. DISTRICT JUDGE**